IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 30.01.2018

CORAM

THE HONOURABLE MR.JUSTICE T.S.SIVAGNANAM

W.P.No.28049 of 2013 & M.P.No.1 of 2013

M/s.Shri Krisshna Builders,
15, Poonamallee High Road,
Maduravoyal, Chennai-600 099. ... Petitioner

Vs.

The Assistant Commissioner (CT),
Koyambedu Assessment Circle,
Chennai. ... Respondent

Petition filed under Article 226 of the Constitution of India praying for issuance of Writ of Certiorarified Mandamus, to call for the records of the respondent herein in Rc.3125/2013/B1 and quash the order dated 10.09.2013 and direct the respondent to grant copies of the records and documents relied on him for the purpose of revision of assessment of the petitioner herein for the assessment years 2003-04 to 2012-13 to enable the petitioner to file appropriate objections, before passing any orders for the said assessment years.

For Petitioner : Mrs.Hema Muralikrishnan

For Respondent : Mrs.G.Dhanamadhri,
Government Advocate

O R D E R

Heard Mrs.Hema Muralikrishnan, learned counsel for the petitioner and Mrs.G.Dhanamadhri, learned Government Advocate for the respondent.

2.The petitioner has filed this writ petition challenging the communication sent by the respondent, who is the petitioner's assessing officer, under the provisions of the Right to Information Act, 2005 (hereinafter referred to as "the Act") by which the petitioner has been informed that the petitioner is not eligible to get the information as sought for by them in their letter dated 13.08.2013, as per Section 8(1)(e) of the Act. However, I find that the said provision may not be applicable to the case on hand, because, the petitioner seeks for information pertaining to its own assessment, that too, for the purpose of giving an effective objection to the proposal made by the respondent to revise the assessment for the years 2003-04 to 2012-13. However, it has become unnecessary for this Court to decide as to whether the respondent was justified in relying upon Section 8(1)(e) of the Act, on account of subsequent development, which took place during the pendency of this writ petition.

3.The petitioner's sister concern viz., Shri Krisshna Builders & Property Developers Pvt., Ltd. had filed a batch of writ petitions before this Court in W.P.No.28048 of 2013 etc., batch challenging the assessment orders passed by the respondent for the assessment years 2007-08 to 2012-13 and sought for a consequential direction to grant copies of the records and documents relied on by the respondent for revising the assessment. The said writ petitions were allowed by common order dated 28.01.2015, by which a direction was issued to the respondent to furnish the documents referred to in the pre-revision notice within a time frame and the said dealer was granted liberty to submit their objections. The operative portion of the order reads as follows:

> "This Court directs the respondents to furnish the documents referred to in the pre-revision notice within a period of four weeks from the date of receipt of copy of the order and the original records shall be handed over to the petitioner immediately at the time of receiving of the copies of the documents. It is open to the petitioner to take necessary copies of the documents to enable them to file reply/objections to the pre-revision notice based on the documents that is going to be furnished by the respondent and also xerox copies of the documents are to be taken by the petitioner from their own record, which are to be submitted by them at the time of receiving the documents from the respondents. The petitioner shall reply/file their documents within a period of four weeks from the date of receipt of copy of documents from the respondent. On scrutinizing the documents and if required for personal hearing, the authority concerned is directed to pass orders within a period of two months from the date of personal hearing. If the petitioner fails to file any objections, it is open to the authorities to pass orders on merits and in accordance with law not influenced by the impugned orders that are quashed by this Court in W.P.No.5306 to 5311 of 2014.

Consequently, connected miscellaneous petitions are closed. No costs.”

4.It appears that, the above direction has been complied with and the petitioner's sister concern has been furnished with the documents referred to in the pre-revision notice and the respondent is in the process of re-doing the assessment. Therefore, in the instant case also, the same procedure has to be adopted and the stand taken by the respondent that he will not furnish the documents is held to be incorrect.

5.Accordingly, this writ petition stands disposed of by directing the respondent to furnish the documents, which have been referred to and relied upon in the pre-revision notice dated 29.07.2013 within a period of four weeks from the date of receipt of a copy of this order. After which, the petitioner is at liberty to file their objections to the revision notice and the assessment shall be completed after affording an opportunity of personal hearing to the authorized representative of the petitioner. No costs. Consequently, connected miscellaneous petition is closed.

Sd/-
Asst.Registrar (CCC)

/true copy/

Sub Asst. Registrar

To

The Assistant Commissioner (CT),
Koyambedu Assessment Circle,
Chennai.

+ 1 cc to Mr.L.Muralikrishnan Advocate,SR.7017
+ 1 cc to The Special Govt.Pleader(Taxes), SR.7028

W.P.No.28049 of 2013

nr 27/02/2018